

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, OCTOBER 15, 2008**

**C-1    Call to Order / Roll Call**

The City Council Closed Session meeting of October 15, 2008, was called to order by Mayor Mounce at 6:00 p.m.

Present: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**C-2    Announcement of Closed Session**

- a)    Actual Litigation: Government Code §54956.9(a); One Case; Garza v. City of Lodi, et al., San Joaquin County Superior Court, Case No. CV026299
- b)    Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Jose Nava against City of Lodi Based on Personal Injury
- c)    Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Police Mid-Managers, Confidential Employees, and Association of Lodi City Employees Regarding General Services and Maintenance & Operators Pursuant to Government Code §54957.6

**C-3    Adjourn to Closed Session**

At 6:00 p.m., Mayor Mounce adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:40 p.m.

**C-4    Return to Open Session / Disclosure of Action**

At 7:00 p.m., Mayor Mounce reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only, and Item C-2 (b) was discussion and direction.

In regard to Item C -2 (c), direction was given to amend the Memorandum of Understanding language for the Police Mid-Managers group. The item will be brought back for Council to take action in open session at a future meeting.

**A.    Call to Order / Roll call**

The Regular City Council meeting of October 15, 2008, was called to order by Mayor Mounce at 7:00 p.m.

Present: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - First Reader Arlene Proctor, First Church of Christ, Scientist

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations

a) National Arts & Humanities Month

Mayor Mounce presented a proclamation to Diane Amaral, Program Coordinator for the Arts and Specialty Classes at Hutchins Street Square, proclaiming the month of October 2008 as "National Arts and Humanities Month" in the City of Lodi.

b) Domestic Violence Awareness Month

Mayor Mounce presented a proclamation to Paula Grech, representative of the Women's Center of San Joaquin County, proclaiming the month of October 2008 as "Domestic Violence Awareness Month" in the City of Lodi.

D-3 Presentations - None

E. Consent Calendar (Reading: Comments by the Public: Council Action)

Council Member Johnson made a motion, second by Council Member Katzakian, to approve the following items hereinafter set forth in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$3,764,689.54 (FIN)

Claims were approved in the amount of \$3,764,689.54.

E-2 Approve Minutes (CLK)

The minutes of the September 30, 2008 (Shirtsleeve Session) were approved as written.

E-3 Approve Specifications and Authorize Advertisement for Bids for Continued Maintenance of Landscape Areas for 2009 (PW)

Approved the specifications and authorized advertisement for bids for continued maintenance of landscape areas for 2009.

E-4 Adopt Resolution Awarding Contract for Heating, Ventilation, and Air Conditioning (HVAC) Installation Project for Lodi Public Library to TNT Industrial Contractors, Inc., of Sacramento (\$368,175); Accepting \$155,000 from the Library Private Sector Trust Fund:

and Appropriating Funds (\$190,000) (PW)

Adopted Resolution No. 2008-201 awarding the contract for Heating, Ventilation, and Air Conditioning Installation Project for Lodi Public Library to TNT Industrial Contractors, Inc., of Sacramento, in the amount of \$368,175; accepted \$155,000 from the Library Private Sector Trust Fund; and appropriated funds in the amount of \$190,000.

E-5 Adopt Resolution Accepting Improvements at Reynolds Ranch, Phase 1 (PW)

Adopted Resolution No. 2008-202 accepting the improvements at Reynolds Ranch, Phase 1.

E-6 Set Public Hearing for November 5, 2008, to Consider Adoption of a Resolution Amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2009 (CD)

Set public hearing for November 5, 2008, to consider adoption of a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2009.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Andrea Woodruff and Gladys Bates, Hispanic Business Committee representatives, invited the public and the City Council to their organization's event to be held at the Lodi Conference and Visitors' Center on November 6, 2008, at 5:30 p.m.

Barbara Flockhart spoke regarding her concerns for the quality of water in the City and funding for water related improvements on the east side of town.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson requested that the relevant staff report and minutes of the Planning Commission meeting be provided to the City Council prior to its consideration of the Wal-Mart appeal. Mr. Johnson also requested that the Council consider a special meeting to hear the appeal, the public comment be limited to that which is relevant, and Planning Commissioners be asked to attend the meeting. He also requested information regarding the water quality in the City in response to Ms. Flockhart's earlier public comment.

In response to Council Member Hitchcock, City Attorney Schwabauer stated he will get back to the Council with the exact answer on the vote requirement for the appeal, but he believed it was a majority. Later in the meeting, Mr. Schwabauer stated the vote requirement was a majority of the entire Council and not just of those present.

H. Comments by the City Manager on Non-Agenda Items

City Manager King stated there will be an agenda item on November 5, 2008, that will allow the

City Council to set the date for the public hearing for the Wal-Mart appeal.

I. Public Hearings - None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments - None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Johnson made a motion, second by Council Member Hitchcock, to approve the cumulative Monthly Protocol Account Report through September 31, 2008.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Noes: None

Absent: None

K. Regular Calendar

K-1 Accept Certification of Referendum Petition Results and Sufficiency of Petition and If So Desired, Call for the Election on March 3, 2009, and Authorize the City Clerk to Conduct Said Election Through the County Registrar of Voters (CLK)

City Clerk Johl provided a brief presentation regarding the certification of the referendum petition results. Ms. Johl specifically discussed the adoption of Ordinance No. 1812, the receipt of a referendum petition, the review of signatures by the San Joaquin County Registrar of Voters, the sufficiency of the petition, and the option for a legislative body to repeal an ordinance or call for an election.

In response to Council Member Hitchcock, Mr. King stated that, if an election is not held until November 2010, the redevelopment ordinance will be held in suspension and there may be an impact on the tax base year.

In response to Council Member Katzakian, Ms. Johl stated the specific election dates are set forth by the Elections Code. She confirmed that any date other than a general municipal election date would be a special election.

In response to Mayor Pro Tempore Hansen, Ms. Johl stated the cost for a special election is approximately \$5.00 per voter and the cost for a general municipal election is approximately \$2.50 per voter. Ms. Johl stated the \$10,000 to \$20,000 figure comes from the addition of a ballot measure to a general election, which also has a Council Member contest, as opposed to one that does not.

John Talbot spoke in support of placing the matter on a ballot to the vote of the people and thanked the individuals who helped with the process, including signature gathering.

Marianne Rivera spoke of her concerns regarding the cost associated with a special election and

the need to submit the matter on a ballot for a vote of the people.

Jane Lea spoke in support of placing the matter on a ballot to the vote of the people, thanked the individuals who helped with the process, and urged the City Council to repeal the ordinance or wait until the November 2010 election.

Council Member Johnson made a motion, second by Mayor Pro Tempore Hansen, to adopt Resolution 2008-203 certifying the referendum petition results and sufficiency of the petition and to adopt Resolution 2008-204 calling for a Special Election on March 3, 2009, and authorizing the City Clerk to conduct the election through the San Joaquin County Registrar of Voters.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, and Council Member Katzakian

Noes: Mayor Mounce

Absent: None

K-2 Consider Request from Library Board of Trustees to Waive Building Permit Fees for the Lodi Public Library Renovation Project (CM)

This item was taken off the agenda in its entirety and not discussed.

K-3 Adopt Resolution Authorizing the City Manager to Enter Into an Amended and Restated Northern California Power Agency Pooling Agreement (EUD)

City Manager King briefly introduced the subject matter of the Northern California Power Agency (NCPA) pooling agreement.

Electric Utility Director George Morrow provided a PowerPoint presentation regarding the pooling agreement. Specific topics of discussion included background, pool members, summary of agreement, key changes, and costs and benefits of the same.

In response to Council Member Hitchcock, Mr. Morrow stated the pool participants will still be controlling the decision-making and the coordination of the process is being set up through an ad hoc committee for less formality.

In response to Council Member Hitchcock, Mr. Morrow stated the proposed revisions allow the pool of ten to react more quickly for changes that are implemented and creates less bureaucracy. Mr. King stated there are no changes to the Risk Oversight Committee or practice of coming to the Council for approval.

In response to Council Member Johnson, Mr. Morrow stated strategically there are a variety of participants that include small, mid-size and larger parties and the goal is to increase the pool size by bringing in other agencies to help spread the costs. He stated agencies such as Santa Clara do not join the pool because they generally are not receiving power from a joint pool since they have their own.

In response to Council Member Hitchcock, Mr. Schwabauer stated that, while he does not attend the monthly meetings, he does attend the annual meeting and is active with the legal subcommittee.

In response to Council Member Johnson, Mr. Morrow stated when Roseville left the short notice was of concern due to costs. He stated the City is better off with the pool, than without, for

efficiency and economy purposes.

In response to Council Member Johnson, Mr. Morrow stated that it is anticipated that new participants to the pool will be mixed and represent small, mid-size, and large entities.

In response to Mayor Mounce, Mr. Morrow stated that, if the City were to leave the pool, the planning could take up to two years. He stated that, if the utility were sold, the process would also take just as much time because contracts would need to be unwound. Mr. Morrow stated he is therefore comfortable with the two-year term, which provides the City with more certainty.

In response to Council Member Hitchcock, Mr. Schwabauer stated he reviews the agendas for the monthly meetings regularly and attends if there is an item that requires his attention.

Mayor Pro Tempore Hansen made a motion, second by Council Member Hitchcock, to adopt Resolution No. 2008-205 authorizing the City Manager to enter into an amended and restated NCPA Pooling Agreement.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Noes: None

Absent: None

K-4 Adopt Resolution Approving Policies and Procedures for Customer Credit Security Program in Accordance with the Fair & Accurate Credit Transactions Act of 2003 (FACT)

City Manager King provided a brief overview of the Fair and Accurate Credit Transactions (FACT) Act of 2003.

Electric Utility Rate Analyst Kevin Bell provided a PowerPoint presentation regarding the FACT Act of 2003. He specially discussed a summary of the Act, the purpose of the Act, examples of "red flag" indicators for identity theft, when identity theft occurs, compliance with the Act, customer credit security protection program, completed requirements, and final approval of policies for a covered agency.

In response to Mayor Mounce, Mr. Bell stated that the Privacy Committee will be identified once the resolution is adopted.

In response to Mayor Pro Tempore Hansen, Mr. Bell stated the greatest risk for potential identity theft occurs when new accounts are opened. He stated the use of Experian stops some of that risk. Financial Services Manager Ruby Paiste stated in September alone approximately 20% of social security or other identifying information could not be matched.

In response to Council Member Hitchcock, Ms. Paiste stated there were previous policies and procedures and the newly proposed policies go further to allow for tracking and reporting of fraudulent actions to law enforcement.

Council Member Hitchcock made a motion, second by Council Member Katzakian, to adopt Resolution No. 2008-206 approving policies and procedures for Customer Credit Security Program in accordance with the FACT Act of 2003.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Mayor Mounce, and Council Member Katzakian

Noes: None

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:31 p.m.

ATTEST:

Randi Johl  
City Clerk